THE DEPUTY COMMISSIONER FOR LABOUR, PERAK, ETC. v. THE TRONOH MINES, LTD., KAMPAR.

[App. Civ. Juris. (Thomson, J.) February 28, 1952]

[Ipoh — Civil Appeal No. 23 of 1951]

Workmen's Compensation Enactment, s. 2 — Brother and sister of the half-blood — Whether dependants — Dependants — Construction of.

Brothers and sisters of the half-blood are not within the meaning of dependants of a deceased workman under section 2 of the Workmen's Compensation Enactment.

Cases referred to :—

(1) *In the Matter of Maung Kyan decd.* I.L.R. 9 Ran. 46.

(2) *In re Dependants of Kartar Singh* A.I.R. (1931) Lah. 752.

APPEAL from a decision of the Commissioner of Workmen's Compensation, Perak South.

M. G. Neal (Federal Counsel) for the appellant.

The facts and arguments appear sufficiently from the judgments.

Cur. Adv. Vult.

Thomson, J. : — This is an appeal from a decision of the Commissioner of Workmen's Compensation, Perak South.

The point in question is the short one of whether or not half-brothers and sisters of a deceased workman who were in fact dependent upon him are dependants within the meaning of the Workmen's Compensation Enactment. The learned Commissioner held that they were not and against that decision the Deputy Commissioner for Labour has now appealed.

The relevant portion of the definition contained in the Enactment (section 2) is as follows :—

" 'dependant' means any of the following relatives of a deceased workman, namely,.....minor brother or unmarried sister.....who were dependant..... upon such deceased workman..... "

The corresponding provision of the English Workmen's Compensation Act, 1925, reads as follows :

4. (1) The dependants of a workman.....are such of the members of the workman's family as were .....dependant upon the earnings of the workman.....

(2) .....

(3) In this Act.....the expression 'Member of a family' means.....brother, sister, half-brother, half-sister."

and the corresponding provision of the Indian Workmen's Compensation Act (No. VIII of 1923) reads as follows :—

" 'Dependant's means any of the following relatives of a deceased workman, namely,.....minor brother or unmarried sister..... "

The present Workmen's Compensation Enactment in this country was first enacted in 1929 and from a consideration of it as a whole it is inconceivable that the framers of it did not have the English Workmen's Compensation Act before them. It is, I think, equally clear that in framing the definition of dependant contained in the Enactment the Legislature had before it the definition contained in the Indian Act. In fact the local definition is a combination of certain portions of the English definition with certain portions of the Indian definition resulting in a new definition presumably though to be best suited to local conditions. The portion of the English definition which has been discarded refers in terms to brothers and sisters of the half-blood in addition to brothers and sisters whereas the portion of the Indian definition which has been adopted only refers to brothers and sisters. From these considerations I find the inference irresistible that it was not the intention of the framers of the local Enactment to include brothers and sisters of the half-blood within its scope.

I would add that I have been unable to derive any assistance from authority. On the English definition the point does not arise and on the Indian definition the authorities so far as I have been able to advise myself of them, are divided. In Rangoon it was held by a Full Bench in the case of *In the Matter of Maung Kyan deceased*(1) that the expression 'brother' in the Indian Act did not include a half-brother whereas in the Lahore case *In re the Dependants of Kartar Singh*(2) it was held (by a single Judge) that it did.

The appeal is dismissed.

Appeal dismissed.